



Judicial Council Minutes

November 17, 2022

Room 230 Minnesota Judicial Center and Zoom

The Judicial Council met on Thursday, November 17, 2022, in Saint Paul, Minnesota.

Fourth District Chief Judge Todd Barnette was not in attendance. Second District Assistant Chief Judge Sara Grewing attended for Chief Judge Leonardo Castro.

1. Approval of Draft Meeting Minutes

Amendments to the September 15, 2022, Minutes were reviewed. The amendments are aimed primarily at amending the motions made in relation to the FY24-25 Budget Request.

A motion was made and seconded to approve the September Minutes, as amended. The motion prevailed.

Council Action

The Judicial Council approved the September 15, 2022, Meeting Minutes, as amended.

An amendment was offered for the October 20, 2022, Meeting Minutes. The first paragraph of the IFP transcript rate discussion needs amendment to replace the term “Chief Judge” with “Chief Justice.”

A motion was made and seconded to approve the October Minutes, as amended. The motion prevailed.

Council Action

The Judicial Council approved the October 20, 2022, Meeting Minutes, as amended.

2. Discussion Item: Current COVID-19 Data

Jennifer Super, Emergency Management Analyst, State Court Administration, presented up to date COVID-19 data.

3. Discussion Item: oneCourtMN Hearings Initiative Update

Judge Kathryn Messerich, Senior Judge, and Heather Kendall, Second Judicial District Administrator, Co-Chairs, presented the oneCourtMN Hearings Initiative (OHI) update.

Fall Stakeholder events, feedback, and data evaluation were reviewed.

The OHI Steering Committee process for development of recommendations for the Judicial Council was reviewed. The Guideposts applied by the Steering Committee include: Majority of Judicial District Feedback; Majority of Justice Partners Feedback; and Presumptive Hearings Chart presumptions that are deviating 40% or more.

The following positive remote hearing themes were reported:

- Remote hearings increase access to justice and reduce costs to litigants. They result in a “People Friendly” system.
- Many judges and staff appreciate the flexibility of being able to work from home.
- Remote hearings allow justice partners to stretch their resources, especially in rural areas.
- Remote hearings have allowed underserved areas to gain greater access to attorneys.
- Judges and parties are comfortable conducting hearings remotely, and thus are open to allowing parties to appear remotely when the circumstances merit.

The following positive in-person hearing themes were reported:

- Better able to read the room with in-person calendars and better able to make connections.
- Better for settlement/better for hearings where settlement discussions normally occur.
- Greater ability to set the tone and formality of the proceeding.
- More effective in trials and contested matters where credibility is questioned, testimony taken, and for those hearings where a restraining order is issued.

Judicial Council Policy 525; oneCourtMN Hearings Initiatives themes were reported:

- Need greater flexibility in Juvenile Delinquency hearings to accommodate the needs of hearing participants and capacities of local justice partners.
- There is a perception that exceptional circumstances hinder the ability of judicial officers to work fluidly. It was also noted that reporting requirements for exceptional circumstances are too time consuming and cumbersome for both staff and judicial officers.
- Some hearing types are missing from the presumptive chart, some hearing types could be better delineated, and scheduling practices may factor into deviations.
- Courts value flexibility of CHIPS pilots in meeting local hearing participant needs.

Data trends were reviewed. Non-criminal hearing data was analyzed to identify hearing type presumptions that are deviating 40% or more of the time. It was noted that of the hearing types that deviate 40% or more of the time, only Guardianship/Conservatorship Order to Show Cause had enough hearings that made the OHI Steering Committee

comfortable recommending a change to this presumption. It was also noted that 81% of deviations from the non-criminal hearing chart have no exceptional circumstance findings (i.e., case event explanation).

OHI Steering Committee recommendations were presented:

1. Change the following hearing types from remote to in-person:
 - Family Pre-Trials
 - Civil Pre-Trials
 - Civil Settlement Conferences
 - Civil Temporary Restraining Orders
2. Change the following hearing types from in-person to remote:
 - Guardianship/Conservatorship Order to Show Cause
3. Move Juvenile Delinquency under the criminal provision within Policy 525:
 - Transition to a pilot akin to criminal
 - Proposed implementation date: January 3, 2023
 - Require each judicial district to develop a Juvenile Delinquency hearing plan by December 20, 2022
4. Continue tracking orders that deviate from Policy 525 with additional messaging and training.
5. Evaluate the non-criminal hearing chart to determine:
 - What hearing types are missing
 - Hearing types in need of alignment with MNCIS
 - If modifications are needed as a result of scheduling practices
 - If there are hearing types that need to be delineated (i.e., complex civil matters, tenant remedies and other housing, expungements, etc.)
 - Further examination of Order for Protection and Harassment hearing practices
6. Continue to monitor all data.
7. Continue Child Protection Pilots.

A discussion ensued. It was noted that the proposed amendments to Policy 525, contained in recommendations 1-3 above, are in response to feedback received and are designed to add flexibility to the way cases are processed. There was a discussion regarding the challenge of knowing when to order an exceptional circumstance on individual cases as judges and staff are focused on getting through calendars, especially high volume ones. It was also noted that reasons for deviation from the hearings presumption charts do not need to be detailed. Reasons are, however, necessary to continue analysis of the efficacy of the presumptions.

A discussion ensued on messaging. It was noted that a multi-faceted approach will be continued with communications in statewide messages, in-person meetings, and through the OHI SharePoint site. The need for senior judge training/communications was noted.

There being no objection to acting on recommendations at the present meeting, a motion was made and seconded to approve recommendations 1-3:

1. Change the following hearing types from remote to in-person:
 - Family Pre-Trials
 - Civil Pre-Trials
 - Civil Settlement Conferences
 - Civil Temporary Restraining Orders

2. Change the following hearing types from in-person to remote:
 - Guardianship/Conservatorship Order to Show Cause

3. Move Juvenile Delinquency under the criminal provision within Policy 525:
 - Transition to a pilot akin to criminal
 - Proposed implementation date: January 3, 2023
 - Require each judicial district to develop a Juvenile Delinquency hearing plan by December 20, 2022

The motion prevailed. It was noted that the amendments apply to cases set on or after January 3, 2023, and that there is no need to re-notice cases.

Council Action

The Judicial Council approved amendments to Judicial Council Policy 525; oneCourtMN Hearings Initiative.

4. Decision Item: Weighted Caseload Committee Recommendation on Timing of Next Judicial Weighted Caseload Study

Judge Shari Schluchter, Ninth Judicial District, Weighted Caseload Committee Chair, reviewed the recommendation, made by the Weighted Caseload Committee, that the Judicial Council target the next study for the spring of 2025.

A motion was made and seconded to approve the recommendation. A discussion ensued. Concern was expressed that there is a current need for additional judge units, so the study should be performed in 2024 to position the Branch to pursue judge unit positions during the 2025 Session. It was also noted that there are many existing projects under way, including the pending release of Odyssey '22, current efforts to address the backlog, and continuation of the implementation of Judicial Council Policy 525, which demand judicial branch attention and resources. Additionally, there is a need to complete these existing projects prior to conducting the next WCL study as the projects could alter the

outcome of a WCL study if the timing study was conducted mid-implementation of the projects.

A vote was taken on the motion and prevailed.

Council Action

The Judicial Council approved the Weighted Caseload Committee recommendation that the next weighted caseload analysis be targeted for the spring of 2025.

5. Discussion Item: Proposed Amendments to Judicial Council Policy 209; Collection and Distribution of Revenues

Dan Ostdiek, Finance Director, State Court Administration, and Julie Rucker, Finance Division, reviewed proposed amendments to Judicial Council Policy 209, Collection and Distribution of Revenues. The proposed amendments facilitate the ability to collect fines and restitution imposed on defendants sentenced to prison and remove the Write Off and Voluntary Payment sections, delegating that responsibility to the State Court Administrator.

There being no objection to acting on the proposal at the present meeting, a motion was made and seconded to approve the amendments. The motion prevailed.

Council Action

The Judicial Council approved amendments to Judicial Council Policy 209; Collection and Distribution of Revenues.

6. Discussion Item: FY23 First Quarter Financial Report

Dan Ostdiek, Finance Director, State Court Administration, reviewed the FY23 First Quarter Financial Report.

7. Decision Item: Proposed 2023 Payables Lists

Judge Stoney Hiljus, Chief Judge, Tenth Judicial District, COPS Committee Chair, reviewed the process for development of the Payables List. He noted that the proposed 2023 Statewide Payables Lists were published for a 30-day comment period and that no comments were received.

A motion was made and seconded to approve the proposed 2023 Traffic/Criminal Payables List. The motion prevailed.

Council Action

The Judicial Council approved the proposed 2023 Traffic/Criminal Payables List.

A motion was made and seconded to approve the proposed 2023 Natural Resources Payables List. The motion prevailed.

Council Action
The Judicial Council approved the proposed 2023 Natural Resources Payables List.

A motion was made and seconded to approve the proposed 2023 Trucks and Common Carriers Payables List. The motion prevailed.

Council Action
The Judicial Council approved the proposed 2023 Trucks and Common Carriers Payables List.

8. Decision Item: IFP Transcript Page Rate

The Judicial Council discussed whether the IFP transcript production rate should be different than the rate for other transcripts.

A motion was made and seconded to set the IFP transcript production rate at \$4.25 a page.

The Council also discussed whether the transcript production rate for cases involving Sexual Psychopathic Personality/Sexually Dangerous Persons (SPP/SDP) should be different than the rate for all other IFP cases.

A vote was taken on the motion and prevailed.

Council Action
The Judicial Council approved the IFP transcript production rate for all IFP transcripts at \$4.25 a page.

9. Discussion Item: Performance Measures Report

Jennifer Ogunleye, Strategic Planning and Projects Unit, State Court Administration, presented statewide performance measures information.

Positive Performance Measures Results:

- Despite the focus on Major Criminal cases in FY22, nearly all case groups maintained clearance rates at or above 100%.
- The statewide clearance rate in FY22 for all case groups combined was 101% (goal is 100% or higher).
- The number of Major Criminal cases actively pending statewide has grown over the past five fiscal years.

- FY22 showed the first year-over-year decrease in the Major Criminal pending caseload in five years.

Areas of Concern:

- Statewide, timing objectives for age of pending cases were not met at the end of FY22 for any case groups (Goal is 1% or lower).
- Statewide, the goals of having 99% of children reach permanency by 18 months and 60% of children reach adoption by 24 months were not met in FY22. Results in FY22 are the lowest in five years.
- The minimum goal of having 80% of closed cases with race information recorded was exceeded for Major and Minor Criminal cases, but not achieved for Juvenile cases
- The ‘strive-for’ goal of 90% of closed cases with race data collected was not met for any case types.
- Statewide separation rate of 14% in FY22 was the highest in ten years.
 - Rise driven by FY22 statewide resignation rate, which doubled from FY21.

Ms. Ogunleye also presented a statewide backlog update:

- Steady, consistent progress has been made toward reducing the statewide backlog.
- Major Criminal clearance rates are consistently over 100%.
- Courts are maintaining progress on the backlog, despite starting to see filing increases in Major Criminal case types with significant judge need.
- Courts are disposing more criminal cases now than pre-pandemic.

Debra Mueske, Seventh and Eighth Judicial Districts Administrator, reviewed backlog reduction efforts made by JAD. JAD met with judges and court administration representatives whose counties have made significant progress reducing their backlog. A recorded webinar will be available by the end of November that will include their stories and strategies for successfully addressing the backlog. JAD affirmed the need for statewide and local messaging about the backlog, leading up to the 2023 legislative session and recommends statewide strategies to continue to reduce the statewide backlog. These strategies include statewide case resolution day (run locally, held on same day(s) statewide) and the establishment of a statewide coalition of justice system partners to support focus on the collective backlog and legislative funding requests for resource needs. JAD also recommends that more focus be placed on promoting recognition for counties and districts that have eliminated their pandemic backlog.

All judicial districts reported on efforts in place to address the backlog. Successful efforts include:

- Consistent communication and collaboration with justice partners
- Increased staffing by justice partners
- Case scheduling flexibility
- Mass case resolution days
- Use of senior judges
- Increased in-person hearings
- More attention to tracking older cases

- Use of uniform scheduling orders
- More stringent scheduling protocols, e.g., no continuances unless there is an emergency
- Use of referees
- Use of Zoom
- Increased use of judges across county lines

Districts also identified statewide strategies that will assist in efforts to address the backlog:

- Need to address the BCA backlog
- Need to address the lack of Rule 20 evaluators
- Need coordinated justice partner strategies to secure adequate funding for the Judicial Branch and justice partners
- Need to explore methods to include age of cases in information provided to judges for each case

10. Decision Item: Strategic Planning Committee Recommendations on Amendments to Strategic Goals and Core Values

Judge Michelle Lawson, Seventh Judicial District, Strategic Planning Committee Chair, reported that the Strategic Planning Committee reviewed the September Judicial Council comments on proposed amendments to the Strategic Goals and Core Values. Based on that discussion, the Committee recommends that no action be taken at this time to amend the Strategic Goals and Core Values. The Committee also recommends that the Judicial Council hold a “Special Topics” session, to discuss the topics of diversity, equity, and inclusion, within the next six months.

11. Discussion Item: Legislative Advisory Workgroup Report

Judge Lucinda Jesson, Court of Appeals, Legislative Advisory Workgroup Chair, reported on Workgroup activities and recommendations on the sixteen legislative proposals submitted to the State Court Administrator’s Office. At this time the Workgroup recommends that the following proposals go forward:

- Permit electronic service for OFP/HRO orders.
- Increase the time and dollar requirements for the establishment of interest-bearing trust accounts for condemnation proceedings.
- Protection of jurors who work differential shifts – Support in concept with further development for possible placement in a jury related legislative package for 2024 Session.
- Judicial and Court Staff Safety and Privacy Act.

In addition, LAW recommends that the Judicial Council take no action on the proposal to establish Juneteenth as a state holiday and that the Branch support this effort if pursued by another entity.

12. Discussion Item: Other Business

a. 2022 Election Results

Members were reminded that congratulatory letters should be sent to 2023 legislators elect.

13. Executive Session

A motion was made and seconded to go into Executive Session. The motion prevailed.

Following discussion, a motion was made and seconded to exit Executive Session. The motion prevailed.

There being no further business the meeting adjourned.